

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

BRANDEN HALEY, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	Case No. C2:05-cv-106
	:	
v.	:	Judge Smith
	:	
CITY OF COLUMBUS, <i>et al.</i> ,	:	Magistrate Judge Abel
	:	
Defendants.	:	

ORDER

This matter is before the Court on Defendants' April 28, 2005 unopposed motion to file an answer *instanter* (doc. 4) and Plaintiff's April 26, 2005 motion for default judgment (doc. 3). Plaintiff Branden C. Haley, a minor, brings this civil rights action through his mother Tammy Haley. Defendants are the City of Columbus, Chief of Police James G. Jackson, and John Doe police officers 1 and 2. In his complaint, Haley maintains that following a car chase, he was arrested and unconstitutionally assaulted by John Doe police officers 1 and 2.

The complaint was filed on February 1, 2005, and on February 28, 2005, Defendants waived service. According to Defendants motion to file an answer *instanter*, they erroneously believed that they had successfully electronically filed an answer on March 24, 2005, which was approximately 10 days before the response deadline. However, on April 26, 2005, Haley filed his motion for default judgment. It was then, Defendants maintain, that they learned that they had not successfully filed their answer.

This Court has a strong preference for deciding issues on the merits, and there

has been no showing that any prejudice will result to the Plaintiff by allowing this matter to proceed on the merits. See *Shepard Claims Serv., Inc. v. William Darrah & Assoc.*, 796 F.2d 190, 192 (6th Cir. 1986). Accordingly, Defendants' April 28, 2005 unopposed motion to file an answer instanter (doc. 4) is **GRANTED**. Plaintiff's April 26, 2005 motion for default judgment (doc. 3) is **DENIED**.

/s/ George C. Smith
George C. Smith, Judge
United States District Court